

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII *CC*  
Mar 26, 2021, 10:54 am  
Michelle Rynne, Clerk of Court

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, ) MAG. NO. 21-0363 RT  
                                  )  
                                  Plaintiff, ) MOTION TO DETAIN DEFENDANT  
                                  )  
                                  vs. )  
                                  )  
                                  )  
VICTOR AGUILAR, )  
                                  )  
                                  Defendant. )  
                                  )  
                                  )

**MOTION TO DETAIN DEFENDANT**

The United States hereby moves to detain this Defendant pending trial,  
pursuant to 18 U.S.C. § 3142(e).

1. **Eligibility of Case.** This Defendant is eligible for detention because the case involves (check all that apply):

- a. Offense committed on release pending felony trial (3142(d)(1)(A)(i))\*
- b. Offense committed on release pending imposition, execution, or appeal of sentence, conviction or completion of sentence (3142(d)(1)(A)(ii))\*
- c. Offense committed while on probation or parole (3142(d)(1)(A)(iii))\*
- d. A citizen of a foreign country (3142(d)(1)(B))\*
- e. Crime of violence (3142(f)(1)(A))
- f. Maximum sentence life imprisonment or death (3142(f)(1)(B))
- g. 10+ year drug offense (3142(f)(1)(C))
- h. Felony, with two prior convictions in above categories (3142(f)(1)(D))
- i. Felony not otherwise a crime of violence involving a minor victim (3142(f)(1)(E))
- j. Felony not otherwise a crime of violence involving the possession or use of a firearm, destructive device, or dangerous weapon (3142(f)(1)(E))
- k. Felony not otherwise a crime of violence involving a failure to register under 18 U.S.C. § 2250 (3142(f)(1)(E))
- l. Serious risk Defendant will flee (3142(f)(2)(A))

- m. Danger to other person or community (3142(e)(1), (d)(2), and (g)(4))
- n. Serious risk obstruction of justice (3142(f)(2)(B))
- o. Serious risk of threat, injury, or intimidation of prospective witness (3142(f)(2)(B))
  - \* requires "l" or "m" additionally

2. **Reason for Detention.** The court should detain Defendant:

- a. Because there is no condition or combination of conditions of release which will reasonably assure Defendant's appearance as required (3142(e)(1))
- b. Because there is no condition or combination of conditions of release which will reasonably assure the safety of any other person and the community (3142(e)(1) and (g)(4))

3. **Rebuttable Presumption.** Pursuant to Section 3142(e), and subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed:

- a. an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.

**4. Time for Detention Hearing.**

The United States requests that the court conduct the detention hearing:

a. At first appearance  
 b. After a continuance of three (3) days

**4. Additional Information.**

As set forth in the Criminal Complaint and its Affidavit, Victor Aguilar is charged with two counts of producing sexually explicit child pornography videos of a Minor Victim. In more plain terms: Mr. Aguilar (age 65) sexually abused a minor female (under age 18), and made video recordings of his abuse. At times relevant to the offense, Aguilar was in a position of great trust in the community: he was an instructor for the Junior Reserve Officers' Training Corps (JROTC) at Waimea High School on Kauai. In this position, he had access to many minors, including the Minor Victim in this case.

Aguilar's crime was an egregious one. It triggers a rebuttable presumption in favor of detention. *See* 18 U.S.C. § 3142(e)(3)(E) ("it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the persons as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed [ . . . ] an offense involving a minor victim under section [ . . . ] 2251").

This presumption exists for good reason, and detention is appropriate in this case. The nature and circumstances of the offense reveal that while in a trusted position with ready access to minors, Aguilar abused his power and physically victimized at least one young woman. The videos—described in more detail in the Criminal Complaint—clearly evidence Aguilar’s voice instructing the Minor Victim on how to pose and what to do (*see* Complaint Affidavit ¶ 20: “You got to quit moving” and “Hopefully, my video is getting us something”), as she asks him, “Do I have to be in this position?” Throughout this video, Aguilar zooms in for a close-up of his hand touching her exposed genitals. In the second video, he coaches the Minor Victim on how to sexualize herself for the camera: “I got a smile out. Okay, let’s see your coyness, there you go. Alright I’ll let you go.” *See* Complaint Affidavit ¶ 21(b). Aguilar’s conduct was predatory and intentional, and his production of these abusive videos was willful.

The government is greatly concerned that Aguilar will reach out to contact the Minor Victim—and any other victims that the government is still in the process of identifying. In a 2017 press interview, Aguilar stated that over the years, the JROTC program included anywhere from 49 to 205 cadets. *See* Complaint Affidavit ¶ 4. In the laptop where he stored the child pornography videos depicting the Minor Victim, Aguilar kept approximately 61 other folders: each dedicated to a different female student or former student of the high school. *See id.* ¶ 18. In

these folders, Aguilar collected images of girls in bikinis, which appeared to be pulled from social media websites. *Id.*

Indeed, Aguilar has proven that the government's concern about witness tampering is well-founded. He reached out to the Minor Victim with text messages after he became aware of the state investigation that ultimately resulted in a pending sexual abuse charge on Kauai. *See* Complaint Affidavit ¶ 15. Detention is the *only* means by which this Court can mitigate the probable and serious risk that Aguilar will try to intimidate or contact the Minor Victim (or other victims the government has not yet identified) to harass, coerce, or dissuade her from testifying against him.

The weight of the evidence against Aguilar is strong. The two crimes charged are founded upon video evidence in which the Minor Victim is visible, and Aguilar's distinctive voice can be heard at length. And, the government's charges against Aguilar may expand if additional victims are identified, and if additional child pornography materials are located.

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Finally, the mandatory minimum term of imprisonment for the current crime charged is 15 years in prison. The consequences of this prosecution are severe. Aguilar is also facing the parallel state prosecution that is pending on Kauai, which will proceed alongside this federal case. The government respectfully requests that Aguilar be detained pending trial.

DATED: March 26, 2021, at Honolulu, Hawaii.

JUDITH A. PHILIPS  
Acting United States Attorney  
District of Hawaii

By */s/ Morgan Early*  
MICAH SMITH  
MORGAN EARLY  
Assistant U.S. Attorneys

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, the true and correct copy of the foregoing was served on the following at their last known address:

Served via Email:

Salina M. Kanai, Esq. [salina\\_kanai@fd.org](mailto:salina_kanai@fd.org)

Attorney for Defendant  
VICTOR AGUILAR

DATED: March 26, 2021, at Honolulu, Hawaii.

/s/Keishla Hernandez

Legal Assistant  
United States Attorney's Office  
District of Hawaii